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ABSTRACT

Discussed in the 1970 Annual report of the Register of Copyrights to the Librarian of Congress are the following topics: (1) General revision of the copyright law, (2) The year's copyright business, (3) Official publications, (4) Copyright contributions to the library collections, (5) Administrative developments, (6) Legislative developments, (7) Judicial developments, and (8) International copyright developments. Extensive historical and current data are presented in tabular form. In addition, a list of publications available from the Library of Congress Copyright Office is provided. See LI 003 712 for the 1971 Annual Report of the Register of Copyrights. (SJ)

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ANNUAL REPORT OF THE REGISTER OF COPYRIGHTS

For the fiscal year ending June 30

1970

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for the fiscal year ending June 30, 1970

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"To promote the Progress of Science and useful Arts . . . ."

Report to the Librarian of Congress

by the Register of Copyrights

THE COPYRIGHT OFFICE

COPYRIGHT functions were centered in the Library of Congress on July 8, 1870, by the "Act to revise, consolidate, and amend the Statutes relating to Patents and Copyrights." The centennial of this momentous action was formally observed at a reception on July 8, 1970, in the Great Hall of the Library. The reception marked the opening of a special exhibit portraying significant events in the development of the copyright system during the past hundred years.

Tables at the end of this chapter tell the story of the growth of the copyright system since the first Federal copyright law of 1790. That law provided for copyright deposit in the district courts, thus dispersing copyright records to 40 or 50 different locations. Later laws provided for deposit at the Smithsonian Institution, the Department of State, and the Patent Office in the Department of the Interior. Gathering into the Library of Congress all the old records, from those sources and from the various State registries, made possible a central bibliography of the Nation. The copyright deposit system, through the ensuing years, not only has enhanced the collections of the Library but has also permitted greater access to timeless literary and artistic treasures and their better control.

In his annual report for the year ending December 1, 1870, Ainsworth R. Spofford, who was then the Librarian of Congress and the principal advocate of centralization of copyright deposits, wrote:

> That the only library in the United States which possesses a national character should not at an earlier period have been made the repository of all American publications protected by the law of copyright, must remain a source of regret to the public. A part of the resulting loss will be supplied by the incorporation with the Library of the entire reserve of copyright books deposited under former laws at the State Department, and afterward at the Department of the Interior. These publications are now being removed to the Capitol, under the law of the last session, and may be expected to add fully twenty-five thousand volumes to this Library.

During the last fiscal year alone, 505,995 items, including 174,519 books, were deposited for copyright registration; 300,618 items were made available to the Library for its collections.

General Revision of the Copyright Law

In this 15th year since the inauguration of the program for general revision of the copyright law, hope sprang anew when, on December 10, 1969, the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee approved the comprehensive revision bill, S. 543, with a number of amendments made by the subcommittee. And on December 16, 1969, in anticipation of enactment of the revision bill during 1970, Public Law 91-147 was enacted, extending until December 31, 1970, all renewal copyrights that would otherwise expire before that date.

But once again, hope dissolved into disappointment during the second session of the 91st Congress as it became evident that there would be no

resolution of the tangled issue of cable television (CATV), which has recently been the main setback to general revision. On August 17, 1970, after the close of the fiscal year, Senator John L. McClellan, chairman of the subcommittee, announced that no further action on the bill would be taken in the Senate during the current session.

The revision bill as approved by the Senate subcommittee on December 10, 1969, made a number of amendments to S. 543 as it had been introduced on January 22, 1969, in the early days of the 91st Congress. Among the several major changes was a completely rewritten section 111 dealing with secondary transmissions by cable television of broadcasts of copyright material. Some of the major changes were provisions requiring payment of royalty fees for use of copyrighted sound recordings in broadcasts and other public performances, the fees to be divided between the record producers and the performers; provisions for photocopying by libraries, supplementing the general stipulations on fair use; a chapter providing for a tribunal, to be appointed as needed, for the two purposes of reviewing periodically the various compulsory license rates fixed in the bill and of determining the distribution of royalty fees paid for compulsory licenses, when claims are in dispute; and the addition, as a separate title III, of the text of the bill previously passed by the Senate for the protection of ornamental designs of useful articles.

On the crucial issue of cable television, the new section 111 provided basically for a compulsory license permitting cable television systems to carry the signals of all local broadcast stations and a specified number, varying in different circumstances, of distant broadcast stations. The application of the license to distant stations would be subject to certain limitations, designed to preserve, to a stated extent, the exclusive rights of local broadcasters in particular programs and to maintain the blackouts imposed on local televising of professional sports events. For the compulsory license, the cable system would pay a total fee under a schedule of rates based on specified percentages of its revenue from subscribers.

In commenting on the new section 111, the Federal Communications Commission expressed its desire that the copyright revision bill do nothing more than provide for a compulsory license and fix the license fees including the method of their collection and distribution, leaving to FCC regulations the determination of which broadcast signals should be carried by cable systems under the compulsory license and the conditions and limitations on such carriage. At the same time, the Commission proposed separate legislation, introduced by Senator John O. Pastore on request on March 23, 1970, as S. 3635, which would authorize the Commission in broad terms to regulate cable (community antenna) systems.

On June 24, 1970, the FCC adopted a set of proposed rules on the carriage of broadcast signals by cable systems (35 Fed. Reg. 11045). Its proposals, which differ in several material respects from the provisions in section 111 of S. 543, were held open for comments until November 23, 1970. The Commission stated that its proposed rules would not become effective until Congress had enacted legislation to provide for payments to copyright owners.

Senator McClellan on August 17, 1970, announced that the subcommittee would not seek further action on S. 543 in the Senate during the current session. In the statement quoted in the *Congressional Record*, he said:

> Accordingly, it is anticipated that by the time the 92d Congress convenes the FCC will have promulgated the necessary rules relating to the carriage of broadcast signals by cable systems and associated matters. This should facilitate action by the next Congress on the CATV provisions of the copyright bill.

He added that he intended to introduce a successor to the revision bill in the next Congress and hoped that its consideration could "resume in the Committee on the Judiciary at the point where proceedings are now being suspended."

On the same day, in conjunction with this statement, Senator McClellan introduced for himself and the other four members of the subcommittee, S. J. Res. 230, extending until December 31, 1971, all renewal copyrights that would otherwise expire before that date. This joint resolution was passed immediately by the Senate. Its effect, together with the five earlier extensions of a similar character, would be to

continue until December 31, 1971, all renewal copyrights in which the total term of 56 years would have expired between September 19, 1962, and December 31, 1971.

The Year's Copyright Business

For the second time in the history of the Copyright Office, gross receipts went over the $2 million mark. With the year's receipts of $2,049,309 added to the balance on hand July 1, 1969, the total came to $2,552,406. Of this amount $78,249 was refunded and $2,857 was returned in the form of uncollectible checks.

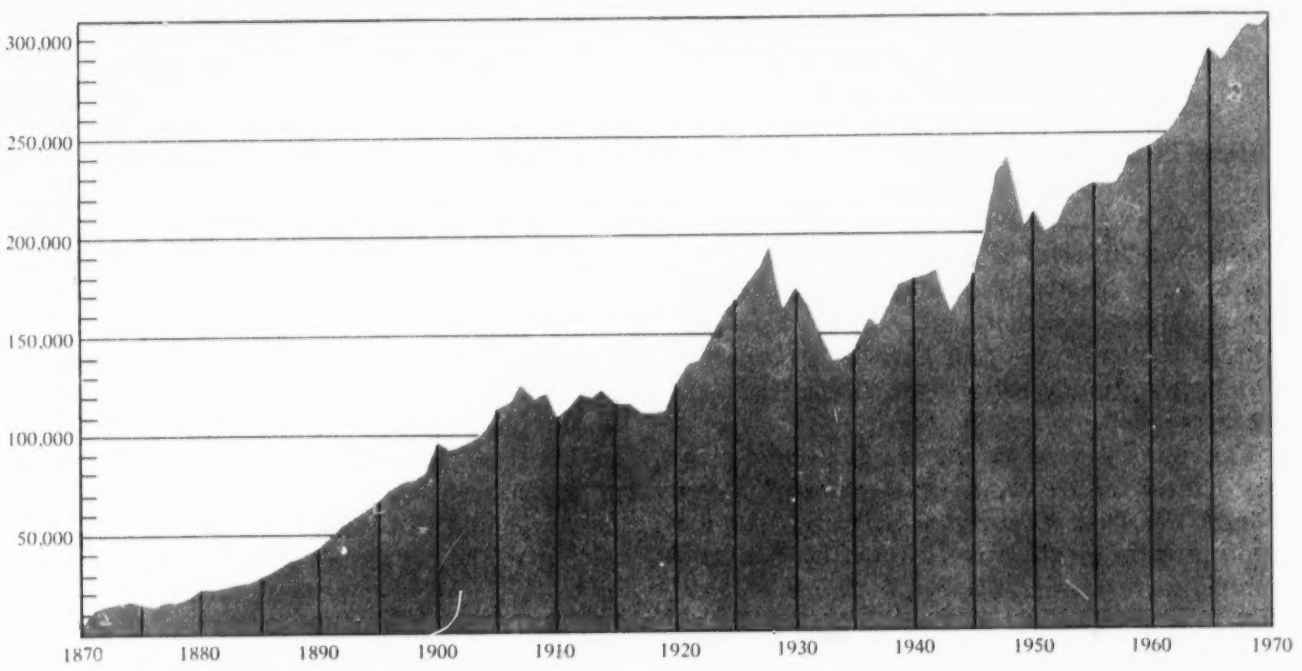
Registrations increased 5 percent to an alltime high of 316,466. Fees earned totaled $1,956,441. Articles deposited for registration numbered 505,995 compared to 476,010 last year. Registrations rose in all classes except maps and motion pictures. The largest increase—6.4 percent—was for music, followed by 5.8 percent for books and 3.9 percent for periodicals. The number of assignments and related documents recorded was slightly under the figure for fiscal 1969. Registrations for U.S. works rose 5 percent; for foreign works, including books by U.S. authors manufactured and first published abroad, the increase was 5.9 percent. Only 2.8 percent of the applications received were rejected. Approximately 12 percent required correspondence before favorable action could be taken.

Renewal registrations were down 10 percent from the previous year, reflecting the decrease in original registrations in 1942-43. Analysis of the table at the end of this chapter, listing renewal registrations by subject matter for the years 1909-69, indicates that 53 percent of all renewals were for music. Only 22 percent were for books, 15 percent for periodicals, 3 percent each for lectures and dramas and for motion pictures, and 2 percent each for maps and graphic arts.

As usual, songs and other works submitted for registration reflected the news and moods of the time. There were scores of tributes to former President Kennedy, his brother Robert, and Martin Luther King. There were songs about ecology, hijacking, miniskirts, the civil rights movement, "the silent majority," heart transplants, Woodstock, and the hippies. Vietnam was, of course, a favorite topic. The moonshot, space, and the astronauts probably inspired more writing during the year than any other topics.

It is estimated that the current Copyright Card

Total Registrations, 1870-1970



Catalog (from 1955) now contains 12 million cards. Over 694,600 were added to the file during the fiscal year. The total number of cards prepared by the Cataloging Division of the Copyright Office for this catalog during the fiscal year was 707,114. Cards sent to divisions of the Library totaled 72,530. Sales of 244,737 cards to subscribers returned $9,144 to the U.S. Treasury.

Letters to the Copyright Office requesting information increased 13 percent. The number of visitors to the public information office decreased by 17 percent, a drop presumably caused by the relocation of the Office outside of Washington. Telephone calls rose 7 percent, and long distance calls have more than doubled since 1966.

The number of hours of paid reference search work at $5 an hour continued to rise dramatically, this year by 9 percent. It is worthy of note, however, that the total number of titles searched, 164,465, was approximately the same as in fiscal 1969. This apparent discrepancy can undoubtedly be attributed to the growth of the Copyright Card Catalog and to the distances between the vast and complex network of files to be searched. Reprint houses and publishers of microreproductions continued to be the dominant users of this service.

Tables detailing comparative statistics for fiscal year 1970 and previous years appear at the end of this chapter.

Official Publications

The copyright law requires the Register of Copyrights "to print at periodic intervals a catalog of titles of articles deposited and registered for copyright, together with suitable indexes." Fifteen regular issues of the *Catalog of Copyright Entries* were published in fiscal 1970; 10 others were compiled.

This was the year for publication of the biennial edition of *Decisions of the United States Courts Involving Copyright,* authorized in the appropriation for the Copyright Office. The 20th volume in this series, *Copyright Office Bulletin* No. 36, was published in April 1970. It contains substantially all Federal and State cases involving copyright and related subjects in the field of intellectual property that were reported during the years 1967 and 1968. The *Cumulative Index* covering cases reported from 1909 through 1954 was reprinted in fiscal 1970.

The popular pamphlet edition of the copyright law (Title 17 of the U.S. Code) came out in a 1969 edition containing not only the statute and the Regulations of the Copyright Office but also such useful supplementary matter as the text of the Universal Copyright Convention and the Rules of the Supreme Court of the United States for practice and procedure in copyright actions.

As is customary, the Register's annual report for the past fiscal year was reprinted from the *Annual Report of the Librarian of Congress* and published in pamphlet form.

Under the sponsorship of the Copyright Society of the U.S.A., a 10-page brochure entitled *A Century of Copyright in the Library of Congress* was prepared and published in connection with the centennial. The brochure featured a story on the part played by Ainsworth Spofford, sixth Librarian of Congress, in the centralization of copyright in the Library and described the exhibit.

The Copyright Office maintains a battery of information circulars as an indispensable aid in answering inquiries. About 25 of them were revised and reprinted during the year, many being renumbered in the process. These circulars range in subject matter from the functions of the Copyright Office to how to copyright a contribution to a periodical.

Copyright Contributions to the Library Collections

Mention has already been made of the contribution that the 100-year-old copyright deposit system has made to the collections of the Library of Congress. In fiscal year 1970 the Copyright Office transferred 300,618 deposits to the Exchange and Gift Division for disposition or for adding to the collections of the Library of Congress, 7,222 items more than during fiscal 1969, but 11,017 less than the previous year. The transfers included valuable current books and cyclope-

dic works, virtually all newspapers and magazines received, musical scores, maps and globes, fine prints and art reproductions, and motion picture films. At the request of the Manuscript Division, three special transfers were made of dramas written by famous dramatists and registered many years ago.

The Compliance Section was effective in obtaining 16,231 registrations, 1,860 at the instance of the Order Division; 30 were for CINE (Council on International Nontheatrical Events) Film Festival motion pictures. In addition, 21 gift copies of festival films were received for the Library's collections. Material received through compliance activities during the year is valued at an estimated $804,790.

Administrative Developments

Staff loss was a major problem in administering the Copyright Office and handling the increasing volume of work. That record numbers of claims, deposits, inquiries, and requests for other services were processed is a tribute to a diminished but dedicated staff. The Service Division, for example, lost 41 employees in fiscal 1970. Many staff members found the transportation and parking problems created by the new location insurmountable or too costly. With the loss in staff, backlogs developed, which only increased the burdens of correspondence and phone calls about delays.

Automation may eventually help to ease the situation. Plans are progressing in this area, but during the time necessary to develop workable systems, intellectual production is unceasing. The knowledge explosion more than keeps pace with the population explosion. An experiment still in the planning stage and familiarly called DAMP, the acronym for Deposit Account Machine Posting, is under way with the cooperation of the Information Systems Office of the Library. This pilot project would automate the work connected with approximately 1,200 deposit accounts maintained for patrons who transact a large and regular volume of business with the Copyright Office.

The estimated five-year program authorized by Congress in 1968 to microfilm for security purposes the primary copyright records from 1870 to 1967 progressed slowly in its second year, meeting many problems along the way. However, of the copyright card applications, 1,518,600 in all classes from 1938 through 1946 were prepared for filming, and 1,441,335 cards were filmed by the Library's Photoduplication Service. In addition, 1,181,000 bound applications were filmed and 681,000 of those exposures reviewed and corrections noted.

In the Examining Division classification actions resulted in a graded structure for the professional personnel and a promotional ladder for the clerical staff that included a newly created position of technician. These developments, it is hoped, will provide career incentive and cut staff loss. The new legal research section went into full operation during the year and produced a substantial volume of valuable material on both domestic and international legal questions.

Because the statute fixes precise time limits for renewal and ad interim registrations, the mail strike that gripped various parts of the country in March raised the fear in the Copyright Office that the delivery of mailed applications for such registrations might be delayed beyond their due date. Fortunately, the strike was short and there are no known cases in which copyright was lost because of it.

The strike did serve to make the Copyright Office aware of the advisability of establishing a procedure for making renewal applications by other means should events arise that might delay delivery of mailed applications. Accordingly, on March 27, 1970, a new subsection (c) was added to section 202.17 of the Regulations of the Copyright Office. It provides for making renewal applications "by means of a telephone call, telegram, or other method of telecommunication" when mail delivery might be too late.

Legislative Developments

Aside from the bills for general revision and the related interim extension of renewal copyrights, several other measures pertaining to the field of copyright and the work of the Copyright

Office were introduced during fiscal 1970. No action had been taken on any of them before the end of the year.

Though differing in some details, H.R. 15616, introduced by Representative Edward I. Koch on January 29, 1970, and H.R. 17841, introduced by Representative Richard Fulton on May 27, 1970, are similar in the main to one another and to bills introduced in previous Congresses. They would amend the Internal Revenue Code to extend capital gains treatment to certain transfers by authors and their assignees of rights in a copyright or a literary, musical, or artistic composition.

A novel approach to the serious problem presented by the widespread piracy of sound recordings is embodied in H.R. 16687, introduced by Representative James A. Burke on March 26, 1970. The bill would provide for issuance by the Government of stamps, bearing an identifying number for each recording, to be placed on every record or tape by the authorized producer and would impose criminal penalties against anyone who knowingly manufactures or distributes records or tapes bearing stamps used by an unauthorized person.

On May 4, 1970, Representative Charles A. Vanik introduced H.R. 17425, which would add a new subsection to section 13 of the copyright law (17 U.S.C.). At present the section requires the publisher of each work issued with a copyright notice to deposit two copies in the Copyright Office. Representative Vanik's bill would require the publisher to deliver an additional copy on demand to each of 12 libraries in various cities. An identical bill, H.R. 18552, was introduced by Representative Seymour Halpern on July 21, 1970.

Deposits of copyrighted works in the Copyright Office could be expected to play a significant role in the acquisition of materials for special collections contemplated by two bills. H.R. 16763, introduced by Representative Frank Thompson, Jr., on April 6, 1970, would establish a National Film Center and Archive in the Library of Congress for the acquisition and maintenance of a national collection of motion pictures. The bill recognizes its copyright implications by stating specifically that none of its provisions "shall be held to transfer to the Center any of the duties of the Register of Copyrights or to otherwise interfere with the administration of copyright laws or to affect any international obligations of the United States relating to copyrights." Deposit in the national collection would therefore not in itself constitute compliance with the copyright law.

Somewhat similar from the standpoint of the Library's collections was the bill, S. 3720, introduced by Senator Howard H. Baker, Jr., on April 15, 1970, which would authorize the Library of Congress to obtain and preserve a collection of video tapes or films of nationally televised programs covering news and other public affairs and to prepare subject matter tapes or films presenting material assembled from those programs dealing with a particular subject over a period of time.

Judicial Developments

The only action brought against the Register of Copyrights during fiscal 1970, *Lewis* v. *Kaminstein,* Civil Action No. 428-69-A in the U.S. District Court for Eastern Virginia, was still pending at the end of the year. Earl C. Lewis, trading as the Peruvian Plastics Products Company, asked the court for an order requiring the Register to issue an amendment to the Regulations of the Copyright Office declaring that works which contain "advertising relating to cigarette and tobacco products and their uses" are not subject to copyright and therefore cannot be accepted for registration. Institution of the suit followed the Register's refusal to issue the proposed regulation in response to the plaintiff's submission of a Petition for Rule Making.

The Department of Justice, acting on behalf of the Register, filed a motion to dismiss the complaint on the ground, among others, that the issuance of such a regulation, if it is within the Register's authority, would be purely a matter for his discretion. The plaintiff has filed an Opposition to the Motion to Dismiss and his own Motion for Summary Judgment.

Subject Matter and Scope of Copyright Protection

The court's treatment of the established principle that methods and systems are not copyrightable and its application of a novelty standard in *Trebonik* v. *Grossman Music Corporation,* 305 F. Supp. 339 (N.D. Ohio 1969), made the decision a controversial one. The court found that a 33-page booklet infringed plaintiff's device for teaching the fingering of chords on a guitar. The device, a wheel chart of guitar chords, was held to be copyrightable on the ground that "it arranges and presents chords in an original, creative, and even novel way." The court stressed the fact that "no one prior to the plaintiff ever attempted to present a categorized system of available guitar chords in a quick reference system such as a wheel."

Reversing the district court, the Fifth Circuit Court of Appeals, in *Tennessee Fabricating Company* v. *Moultrie Manufacturing Co.,* 421 F. 2d 279, *cert. denied,* 398 U.S. 928 (1970), held that a 12- by 12-inch architectural metal casting print "formed entirely of intercepting straight lines and arc lines" was copyrightable as a work of art. In reaching its decision the court cited section 202.10(b) of the Regulations of the Copyright Office, as well as Circular 32 on blank forms and other uncopyrightable materials, and concluded "that plaintiff's architectural unit possessed at least the minimal degree of creativity required for copyright."

The same court seemed to take a somewhat stricter approach to the "minimum original authorship" issue in denying the validity of plaintiff's copyright in *Donald* v. *Zack Meyer's T.V. Sales and Service,* 165 U.S.P.Q. 751 (5th Cir. 1970). Plaintiff had copyrighted an alleged original "Agreement," or business form, consisting of about 150 words, which was later copied and became the subject of the litigation. Relying on the similarity between plaintiff's work and standard conditional sales contracts, the court found that plaintiff used earlier works in drafting his own. The court said, however, that neither the existence of earlier forms nor plaintiff's use of them necessarily precluded protection. A valid copyright could have been obtained if the "Agreement" were original. The court considered many of the decided cases in which "originality" had been considered, including *Alfred Bell & Co.* v. *Catalda Fine Arts, Inc.,* 191 F. 2d 99 (2d Cir. 1951), but in reaching its conclusion that plaintiff's work was not original, the court relied on the "sweat of his own brow" test of *Amsterdam* v. *Triangle Publications, Inc.,* 189 F. 2d 104 (3d Cir. 1951). The court said: ". . . like the map in *Amsterdam,* Donald's form is nothing more than a mosaic of the existing forms, with no original piece added. The Copyright Act was not designed to protect such negligible efforts. We reward creativity and originality with a copyright but we do not accord copyright protection to a mere copycat."

The scope of the right to make musical arrangements under the "mechanical reproduction" provisions of 17 U.S.C. §1(e) was at issue in *Leo Feist, Inc.* v. *Apollo Records, N.Y. Corp.,* 300 F. Supp. 32 (S.D.N.Y. 1969), *aff'd* 418 F. 2d 1249 (2d Cir. 1969), *cert. denied,* 398 U.S. 904 (1970). Citing earlier scholarly works, the court stated: ". . . the requirement that a 'compulsory license' be limited in its use in mechanical reproduction to the use originally made or granted by the plaintiff in the initial mechanical reproduction, has been liberally construed. This requirement has been said to mean that the reproduction need not be identical, but that some latitude must be allowed to each manufacturer to prepare an individual instrumental or vocal arrangement of the composition."

In the case under consideration the court held that the "individual artistic interpretations" of the artists performing a "standard arrangement" of a musical composition did not constitute a new "arrangement" within the meaning of section 1(e).

Free-lance court reporters failed in their action for a preliminary injunction to protect alleged common law copyrights in their transcripts of the Kennedy-Kopechne inquest proceedings. In *Lipman* v. *Commonwealth of Massachusetts,* 311 F. Supp. 593 (D. Mass. 1970), the district court held that such transcripts were intended to be public documents notwithstanding the court reporters' alleged custom of selling copies of official transcripts. "No authority . . . can . . . be

found to establish that a court reporter may acquire a copyright interest in a transcript he prepares in the course of his duties as court reporter. From the nature of court transcripts they would appear to be beyond the protection extended thus far by any reported case, federal or state, interpreting the copyright laws."

Notice of Copyright

Validity of a copyright notice on a 12-foot statue on a base 12 feet tall, resting on a pile of rocks three feet high, was questioned in *Scherr* v. *Universal Match Corp.*, 297 F. Supp. 107 (S.D.N.Y. 1967), *aff'd*, 417 F. 2d 497 (2d Cir. 1969), *cert. denied*, 397 U.S. 936 (1969). The notice on the statue in question was about 22 feet from the ground. Because it was invisible to a ground observer and thus failed "to apprise anyone seeking to copy the article of the existence of the copyright," the district court found this notice invalid. In finding for the defendant on other grounds, the appellate court specifically declined to rule on the adequacy of the copyright notice.

Perhaps the year's most far-reaching decision concerning the notice of copyright came from the Second Circuit in the infringement action of *Goodis* v. *United Artists Television, Inc.*, 425 F. 2d 397 (2d Cir. 1970). At issue was the validity of plaintiff's copyright in the novel *Dark Passage*, first serialized in the *Saturday Evening Post*. Each issue of the *Post* contained a single copyright notice in the publisher's name. There was no separate notice on the contribution. In upholding the validity of the copyright in the contribution, however, the court unanimously concluded "that where a magazine has purchased the right to first publication under circumstances which show that the author has no intention to donate his work to the public, copyright notice in the magazine's name is sufficient to obtain a valid copyright on behalf of the beneficial owner, the author or proprietor."

The court cited several sections of the copyright revision bill (S. 597, 90th Congress) which, if enacted, would dictate the conclusion reached in this case and said that an identical result is not precluded under the present statute. It emphasized its view that "where the question is the interest needed to obtain copyright . . . the important considerations are the intention of the parties to obtain copyright and the adequacy of notice to the public; the characterization of the publisher as assignee or licensee is secondary."

Another liberal construction of the notice requirement was enunciated in *Irving J. Dorfman Co.* v. *Borlan Industries, Inc.*, 309 F. Supp. 21 (S.D.N.Y. 1969). The court declined to find abandonment of copyright where plaintiff allowed a photograph of its copyrighted lace design to be placed on boxes containing lingerie without insisting upon the inclusion of the copyright notice. Although denying plaintiff's motion for a preliminary injunction because his customer testified that "the production deliveries of the bolts of lace received by us did not contain notice of copyright affixed to the fabric," the court said that "the threshold question is whether the copyright notice was affixed when the goods left plaintiff's factory, and it is not fatal if others later removed the required notice."

Use of an abbreviated style in the copyright notice was sufficient for statutory purposes in the view of the Fifth Circuit Court of Appeals in *Tennessee Fabricating Co.* v. *Moultrie Manufacturing Co.*, 421 F. 2d 279, *cert. denied*, 398 U.S. 928 (1970). The copyright notice on the work involved in this case read simply "TFC CO. ©," while the claimant's name in the certificate of registration read "Tennessee Fabricating Company d/b/a/ TFC CO." Although the lower court had held the notice inadequate because the abbreviation was not plaintiff's name nor the name by which plaintiff was known in the industry, the Circuit Court held that in view of the testimony that the "TFC CO." is the plaintiff's "trademark and standard name registered with the Federal Government as a trademark," the copyright notice was adequate. Similarly, in *Herbert Rosenthal Jewelry Corp.* v. *Grossbardt*, 164 U.S.P.Q. 602 (S.D.N.Y. 1970), the use of the plaintiff's trademark, "HR" within a diamond, as the name in the copyright notice on a sculptured bee pin was upheld.

In another case involving the same parties, *Herbert Rosenthal Jewelry Corp.* v. *Grossbardt*, 166 U.S.P.Q. 65 (2d Cir. 1970), the issue of the

validity of a copyright notice arose again. This time the court relied upon section 21 of the statute in finding that the obscurity of the copyright notice on five out of a total of 300 pins that plaintiff sold did not invalidate the copyright.

In *Trebonik* v. *Grossman Music Corp.*, 305 F. Supp. 339 (N.D. Ohio 1969), the court found that although the copyright proprietor was Joseph Trebonik, a notice in the name of "Trebb Sales" was not defective since "there was no evidence that anyone was misled by this slight imperfection," and since "the proprietor was indicated with sufficient specificity to meet the requirements of Title 17 U.S.C.A. §19."

Correctness of classification was considered by the Ninth Circuit in *Roth Greeting Cards* v. *United Card Co.*, 166 U.S.P.Q. 291 (9th Cir. 1970). The court held that a revised application, filed to supplant an incorrect original, relates back to the date of filing the original application. Also, under section 13 of the copyright law, plaintiff may "maintain" an action instituted on the very day he mails his revised application, since he has then satisfied all requirements with respect to registration and the deposit of copies.

The New York court, which liberally construed the notice requirement in the *Dorfman* case, cited above, refused to relax the notice of intention to use requirements in *Leo Feist, Inc.* v. *Apollo Records,* 300 F. Supp. 32 (S.D.N.Y. 1969), *aff'd,* 418 F. 2d 1249 (2d Cir. 1969), *cert. denied,* 398 U.S. 904 (1970). In this action owners of a proprietary interest in copyrighted musical compositions sought damages for infringement arising out of defendant's unauthorized recordings of the compositions without filing a notice of intention to use until more than a year after the recordings had been manufactured. The court said ". . . the notice provisions are the 'keystone' of the mandatory licensing scheme under the Copyright Law . . . and it is no excuse that the defendants relied upon a custom or trade practice of awaiting completion of manufacture and distribution of a recording before filing a notice of intention to use . . . ."

Plaintiff's use of an incorrect publication date in his original registration application for copyright on a piece of jewelry and his subsequent procurement of another registration certificate correcting the date of publication, thereby shortening the period of statutory protection, did not, said the court in *Herbert Rosenthal Jewelry Corp.* v. *Grossbardt,* 164 U.S.P.Q. 602 (S.D.N.Y. 1970), render the notice of copyright insufficient.

Adding to the long list of similar decisions, the court, in *Tennessee Fabricating Co.* v. *Moultrie Manufacturing Co.,* 421 F. 2d 279 (5th Cir. 1970), *cert. denied,* 398 U.S. 928 (1970), found that "despite some authority to the contrary, the better rule and that sustained by the weight of authority is that the certificate of registration is prima facie evidence of the validity of the copyright, including the fact that the initial publication was with copyright notice."

Ownership and Transfer of Rights

The *De Sylva* v. *Ballentine,* 351 U.S. 570 (1956), doctrine of applying state decedent law to determine the right of an illegitimate child under section 24 of the copyright law was tested and affirmed in *Jerry Vogel Music Co.,* v. *Edward B. Marks Music Corp.,* 425 F. 2d 834 (2d Cir. 1969). The case concerned renewal rights in a song written by three men and copyrighted in 1923. The widow of one author and the next of kin of the two others assigned their renewal rights to defendant, and the copyright was renewed.

One author had an illegitimate daughter, born in 1931, who survived him. In 1958, she assigned her renewal rights to plaintiff, who sought by this action to share in the renewal rights. Under New York law, an illegitimate child is denied the right to inherit from a father.

The Court of Appeals refused to apply a recent U.S. Supreme Court decision that found a State statute preventing illegitimate children from suing for the wrongful death of their mother to be an unconstitutional denial of equal protection of the laws. The court reasoned that to apply that decision, given in the case of *Levy* v. *Louisiana,* 391 U.S. 68 (1968), would be "partially to invalidate a commercial transaction carried out in the 1940s."

The employment-for-hire concept was an issue

in *Scherr* v. *Universal Match Corp.*, 297 F. Supp. 107 (S.D.N.Y. 1967), *aff'd*, 417 F. 2d 497 (2d Cir. 1969), *cert. denied*, 397 U.S. 936 (1969). The lower court in the *Scherr* case found an employment-for-hire relationship where plaintiffs on active military duty created a statue entitled "The Ultimate Weapon." The work was produced at the urging of a post commander, largely at Government expense and with the Army exercising some control over the design. On appeal, the court affirmed the district court on the employment-for-hire question. "The essential factor in determining whether an employee created his work of art within the scope of his employment as part of his employment duties is whether the employer possessed the right to direct and to supervise the manner in which the work was being performed."

The principle "that when an employee produces work 'at the instance and expense of his employer . . . the employer has been presumed to have the copyright' " was held applicable "when the parties bear the relationship of employer and independent contractor," in the case of *Irving J. Dorfman Co.* v. *Borlan Industries, Inc.*, 309 F. Supp. 21 (S.D.N.Y. 1969). The court found that where an independent contractor, who created a lace design for the copyright holder, failed to show that he intended to claim copyright ownership, the holder "could properly have registered the design under 17 U.S.C. §9 as an 'author.' "

In *Lewis Music Publishing Co.* v. *Shapiro, Bernstein and Co.*, 33 App. Div. 2d 679, 305 N.Y.S.2d 904 (1969), the court found that the plaintiff had not acquired the renewal right to the musical composition in question, since his original agreement with the composer referred only to the "copyright." Defendant's subsequent purchase of renewal rights from the composer was held effective.

The interpretation of rights under a 1940 contract was upheld on appeal from the ruling of the Appellate Division of the New York Supreme Court in *Hellman* v. *Samuel Goldwyn Productions*, 26 N.Y.2d 175, 309 N.Y.S.2d 180 (1970). A clause providing the "right to televise (by broadcast, wire, or any other means or methods) motion pictures . . . is included in the motion picture rights herein granted the Purchaser . . ." but reserving the right to televise direct from living actors was held to give purchaser the right to license the television exhibition of its motion picture, even though the author would have sold this right for a higher sum had he foreseen the development of television at the time he made the contract.

On a related question, the New York District Court's decision in *Goodis* v. *United Artists Television, Inc.* was reversed on appeal, 425 F.2d 397 (2d Cir. 1970). The lower court gave a summary judgment for defendant on the ground, among others, that a contract granting motion picture rights in a novel included the right to produce a television series based on the novel. The decision was overturned because such an interpretation involves factual determinations which cannot be made on a motion for summary judgment.

Infringement and Remedies

In reversing the district court, the Fifth Circuit Court of Appeals in *Tennessee Fabricating Co.* v. *Moultrie Manufacturing Co.*, 421 F. 2d 279, *cert. denied*, 398 U.S. 928 (1970), found that defendant's reproduction in its catalog of plaintiff's architectural units was for the purpose of appropriating plaintiff's design and could not constitute "fair use." Also, defendant's redesign of its units through the addition of intercepting straight lines to plaintiff's filigree pattern was actionable since "infringement is not confined to exact reproduction but includes colorable alterations made to disguise the piracy."

In *Walt Disney Productions* v. *Alaska Television, Inc.*, 310 F. Supp. 1073 (W.D. Wash. 1969), defendant argued that its showing of certain copyrighted motion pictures over a CATV system without plaintiff's permission was not an infringement of copyright because of the Supreme Court's ruling in *Fortnightly Corp.* v. *United Artists Television, Inc.*, 392 U.S. 390 (1968), that CATV systems do not "perform" within the meaning of the copyright law. The court disregarded the "performance" question because defendant in this case had made video tape recordings of the motion pictures and then shipped the video tapes from Seattle and Tacoma, Wash., to Juneau, Alaska, where they

were transmitted over the cable system a week after their recording. The court believed that the recording of the motion pictures in such form that they could be shown innumerable times and after any period of time infringed the plaintiff's rights under section 1(d) of title 17 U.S.C.

New light was shed on the statutory remedies for infringement of copyright in the case of *Fedtro, Inc.* v. *Kravex Manufacturing Corp.*, 165 U.S.P.Q. 510 (E.D.N.Y. 1970). Section 101(b) of the copyright law provides that an infringer shall be liable to "pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement . . . ." The court held that plaintiff in this case was not entitled to both the profit from infringing sales and the loss of profits plaintiff would have made on the same sales but only to the greater of the two amounts as being inclusive of both damages and profits under section 101(b).

Is a management company liable for the unauthorized performance of copyrighted musical works at local community concerts if it "knowingly participates" in the infringment? In the case of *Gershwin Publishing Corp.* v. *Columbia Artists Management, Inc.*, 312 F. Supp. 581 (S.D.N.Y. 1970), the management company created and maintained local community concert associations, which sponsored the public performance of music in the ASCAP repertory without the copyright owner's permission. This activity on the part of the management company was held to "cause the infringement" and to constitute "knowing participation in the infringement," either of which is a sufficient basis for fixing liability.

Unfair Competition and Other Theories of Protection

The growing demand for stereophonic tape cartridges has resulted in even greater concern on the part of recording companies for the protection of their recordings against "piracy." In *Capitol Records, Inc.* v. *Erickson, d.b.a. Phoenix Tapes*, 2 Cal. App.3d 526, 82 Cal.Rptr. 798 (1969), *cert. denied*, 398 U.S. 960 (1970), the defendant, Phoenix Tapes, made stereophonic tape cartridges by reproducing Capitol's phonograph records and tapes and sold them to the public at a substantially lower cost than Capitol's tapes. No permission was sought by Phoenix, and the only payments made by Phoenix were to the copyright owners of the musical compositions under the compulsory license provisions of the copyright law.

Phoenix argued that its conduct in duplicating the Capitol recordings was condoned by the decisions in *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225 (1964), and *Compco Corp.* v. *Day-Brite Lighting Inc.*, 376 U.S. 234 (1964), which indicated that State law could not restrict freedom to copy what Federal patent and copyright laws leave in the public domain. In affirming the trial court's preliminary injunction restraining Phoenix from reproducing Capitol's recordings, the court cited numerous cases distinguishing between "copying," which is permitted by *Sears* and *Compco*, and misappropriation of the product itself, which State courts continue to protect against.

The *Sears* and *Compco* cases formed a basis for the court's finding for the defendant in *Press Publishing Co.* v. *Atlantic County Advertiser, Inc.*, 108 N.J. Super. 75, 260 A. 2d 6 (1969). Plaintiff's advertising department made up layouts for advertisements that were printed in plaintiff's newspaper. The advertisements were not copyrighted. The court denied plaintiff's contention that defendant's reproduction in his newspaper of the advertisements for the same firms constituted unfair competition. The court rejected plaintiff's argument that *International News Service* v. *Associated Press*, 248 U.S. 215 (1918), and recent cases following it were controlling, and found *Sears* and *Compco* to relate more closely to the case at bar.

In an action by the Government for violation of section 1 of the Sherman Act, *United States* v. *Chicago Tribune-New York News Syndicate, Inc.*, 309 F. Supp. 1301 (S.D.N.Y. 1970), the court denied the defendant's motion to dismiss the action for failure to state a claim upon which relief could be granted. The Government alleged that the news syndicate had made agreements

with its customers to supply them with copyrighted features, that the syndicate agreed it would not sell the features to other newspapers within a specified territory, and that, since the territories were "arbitrary and unreasonably broad," the agreements were in unreasonable restraint of trade. The defendant's argument, in part, "that by reason of the copyright, an exclusive territorial license may be granted, no matter how 'arbitrary' or how 'unreasonably broad' the territory may be," was rejected by the court. The Government should be allowed, the court held, to show at trial that the defendant's grants to its licensees of exclusive territories were greater than were needed to protect them in their use of the features.

International Copyright Developments

There were five international meetings of importance dealing with copyright and related subjects in fiscal 1970. Four of these dealt with the continuing effort to find solutions to the international copyright crisis resulting from the Stockholm Conference of 1967 and the Protocol Regarding Developing Countries that was then integrated into the Berne Convention. The fifth concerned the unauthorized use of programs transmitted by communications satellites.

Washington was the scene of the first and most important of these meetings. Pursuant to a resolution of the Intergovernmental Copyright Committee of the Universal Copyright Convention and of the Permanent Committee of the Berne Union, delegates from 25 countries met at the State Department in September 1969. The resolution established an International Copyright Joint Study Group whose mandate was "to study the entire situation of international relations in the field of copyright." At issue was the fate of the Stockholm Protocol, the concessions that developed countries were willing to make to developing countries, and the future relationship between the Berne and Universal Conventions.

The United States delegation included the Register of Copyrights, who was elected honorary chairman of the conference, and the Assistant Register, Barbara A. Ringer. The Librarian of Congress also participated and delivered the opening address.

Several positive recommendations emerged from the meeting. The principal one, entitled the "Washington Recommendation," called for the simultaneous revision of the Berne and Universal Conventions and included proposals for ameliorating the conflict between the developed and developing countries and for modifying the relationship between the two conventions.

Another recommendation concerned the establishment, under the auspices of UNESCO, of an International Copyright Information Center. The objectives of this center would be to permit developing countries a greater degree of access to educational and scientific works through an exchange of information concerning the terms and conditions upon which specific works might be available from developed countries. This center is expected to begin operations at UNESCO headquarters in Paris in 1971.

In December 1969, the Intergovernmental Copyright Committee and the Permanent Committee of the Berne Union met in ordinary sessions. They decided to adopt the "Washington Recommendation" in its entirety and accordingly evolved plans for the revision of both conventions. These included several meetings preparatory to two diplomatic conferences in May-June 1971.

To prepare draft texts for the revision of the Universal Copyright Convention and the Berne Convention, two ad hoc committees met in May 1970 in Paris and Geneva. The Assistant Register of Copyrights was the U.S. delegate to these meetings and was elected chairman of the Paris meeting.

The draft texts finally adopted by the two ad hoc committees reflected, in large part, proposals which had been submitted to UNESCO by the United States. These included a new provision in the UCC establishing the author's basic rights of reproduction, public performance, and broadcasting, as well as providing for concessions for developing countries in respect to translations and reprints.

At extraordinary sessions of the Intergovernmental Copyright Committee and the Permanent Committee of the Berne Union, held in Septem-

ber 1970, the texts adopted by the ad hoc committees were given further study. These committees then made the final preparation for the diplomatic conferences to be held in May-June 1971.

Sixty countries were represented at a Meeting of Governmental Experts on International Arrangements in the Space Communications Field, convened by UNESCO in December 1969. One of the problems considered was the protection of works transmitted by satellite against international piracy.

All of the experts present agreed on the urgency of protecting broadcast signals transmitted by satellite. They differed, however, on the best means of affording this protection. Of the proposals that emerged from the meeting, the greatest support was given to an amendment to the International Telecommunications Convention or a new treaty. It was concluded that these proposals should be studied further at a conference to be convened in 1971 under the joint auspices of UNESCO and the United International Bureaux for the Protection of Intellectual Property (BIRPI).

The World Intellectual Property Organization (WIPO) came into being on April 26, 1970, a significant day for international copyright. The convention, signed at Stockholm on July 14, 1967, states that the objectives of the new organization are to promote the protection of intellectual property throughout the world through cooperation among states and to ensure administrative cooperation among the unions established by the various conventions and agreements now administered by BIRPI. Until all the member states of these Unions have become members of WIPO, it will continue to exist side by side with BIRPI. The United States deposited its instrument of ratification of WIPO on May 25, 1970, and participated in the first meetings of the new organization in September 1970.

No additional members adhered to the Universal Copyright Convention in fiscal 1970. Its membership remains at 58 countries.

Chile became a party on June 5, 1970, to the Berne Convention for the Protection of Literary and Artistic Works, as revised at Brussels in 1948. In addition, Upper Volta, by a note dated September 12, 1969, indicated its intention to denounce the Berne Convention. This denunciation became effective September 20, 1970. At present, the Berne Convention has 60 members.

Paraguay deposited an instrument of ratification to the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, commonly known as the Rome Convention on Neighboring Rights. This instrument was effective on February 26, 1970, and brings to 11 the number of members of that convention.

Respectfully submitted,

ABRAHAM L. KAMINSTEIN
Register of Copyrights

International Copyright Relations of the United States as of October 10, 1970

This table shows the status of United States copyright relations with other independent countries of the world. The following code is used:

UCC	Party to the Universal Copyright Convention, as is the United States.
BAC	Party to the Buenos Aires Convention of 1910, as is the United States.
Bilateral	Bilateral copyright relations with the United States by virtue of a proclamation or treaty.
Unclear	Became independent since 1943. Has not established copyright relations with the United States, but may be honoring obligations incurred under former political status.
None	No copyright relations with the United States.

Country	Status of copyright relations
Afghanistan	None
Albania	None
Algeria	Unclear
Andorra	UCC
Argentina	UCC, BAC, Bilateral
Australia	Bilateral
Austria	UCC, Bilateral
Barbados	Unclear
Belgium	UCC, Bilateral
Bhutan	None
Bolivia	BAC
Botswana	Unclear
Brazil	UCC, BAC, Bilateral
Bulgaria	None
Burma	Unclear
Burundi	Unclear
Cambodia	UCC
Cameroon	Unclear
Canada	UCC, Bilateral
Central African Republic	Unclear
Ceylon	Unclear
Chad	Unclear
Chile	UCC, BAC, Bilateral
China	Bilateral
Colombia	BAC
Congo (Brazzaville)	Unclear
Congo (Kinshasa)	Unclear
Costa Rica	UCC, BAC, Bilateral
Cuba	UCC, Bilateral
Cyprus	Unclear
Czechoslovakia	UCC, Bilateral
Dahomey	Unclear
Denmark	UCC, Bilateral
Dominican Republic	BAC
Ecuador	UCC, BAC
El Salvador	Bilateral by virtue of Mexico City Convention, 1902
Equatorial Guinea	Unclear
Ethiopia	None
Fiji	Unclear
Finland	UCC, Bilateral
France	UCC, Bilateral
Gabon	Unclear
Gambia	Unclear
Germany	Bilateral; UCC with Federal Republic of Germany
Ghana	UCC
Greece	UCC, Bilateral
Guatemala	UCC, BAC
Guinea	Unclear
Guyana	Unclear
Haiti	UCC, BAC
Holy See (Vatican City)	UCC
Honduras	BAC
Hungary	Bilateral
Iceland	UCC
India	UCC, Bilateral
Indonesia	Unclear
Iran	None
Iraq	None
Ireland	UCC, Bilateral
Israel	UCC, Bilateral
Italy	UCC, Bilateral
Ivory Coast	Unclear
Jamaica	Unclear
Japan	UCC
Jordan	Unclear
Kenya	UCC
Korea	Unclear
Kuwait	Unclear

Country	Status of copyright relations
Laos	UCC
Lebanon	UCC
Lesotho	Unclear
Liberia	UCC
Libya	Unclear
Liechtenstein	UCC
Luxembourg	UCC, Bilateral
Madagascar	Unclear
Malawi	UCC
Malaysia	Unclear
Maldive Islands	Unclear
Mali	Unclear
Malta	UCC
Mauritania	Unclear
Mauritius	Unclear
Mexico	UCC, BAC, Bilateral
Monaco	UCC, Bilateral
Morocco	Unclear
Muscat and Oman	None
Nauru	Unclear
Nepal	None
Netherlands	UCC, Bilateral
New Zealand	UCC, Bilateral
Nicaragua	UCC, BAC
Niger	Unclear
Nigeria	UCC
Norway	UCC, Bilateral
Pakistan	UCC
Panama	UCC, BAC
Paraguay	UCC, BAC
Peru	UCC, BAC
Philippines	Bilateral; UCC status undetermined
Poland	Bilateral
Portugal	UCC, Bilateral
Rumania	Bilateral
Rwanda	Unclear
San Marino	None
Saudi Arabia	None
Senegal	Unclear
Sierra Leone	Unclear
Singapore	Unclear
Somalia	Unclear
South Africa	Bilateral
Southern Yemen	Unclear
Soviet Union	None
Spain	UCC, Bilateral
Sudan	Unclear
Swaziland	Unclear
Sweden	UCC, Bilateral
Switzerland	UCC, Bilateral
Syria	Unclear
Tanzania	Unclear
Thailand	Bilateral
Togo	Unclear
Tonga	None
Trinidad and Tobago	Unclear
Tunisia	UCC
Turkey	None
Uganda	Unclear
United Arab Republic (Egypt)	None
United Kingdom	UCC, Bilateral
Upper Volta	Unclear
Uruguay	BAC
Venezuela	UCC
Vietnam	Unclear
Western Samoa	Unclear
Yemen	None
Yugoslavia	UCC
Zambia	UCC

Total Registration, 1790-1970

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1790-1869	150,000					150,000
1870		5,600				5,600
1871		12,688				12,688
1872		14,164				14,164
1873		15,352				15,352
1874		16,283				16,283
1875		15,927	267		267	16,194
1876		14,882	510		510	15,392
1877		15,758	324		324	16,082
1878		15,798	492		492	16,290
1879		18,125	403		403	18,528
1880		20,686	307		307	20,993
1881		21,075	181		181	21,256
1882		22,918	223		223	23,141
1883		25,274	618		618	25,892
1884		26,893	834		834	27,727
1885		28,411	337		337	28,748
1886		31,241	397		397	31,638
1887		35,083	384		384	35,467
1888		38,225	682		682	38,907
1889		40,985	312		312	41,297
1890		42,794	304		304	43,098
1891		48,908	289		289	49,197
1892		54,735	6		6	54,741
1893		58,956		1	1	58,957
1894		62,762		2	2	62,764
1895		67,572		6	6	67,578
1896		72,470	1	11	12	72,482
1897		75,000	3	32	35	75,035
1898		75,545	71	18	89	75,634
1899		80,968	372	76	448	81,416
1900		94,798	682	93	775	95,573
1901		92,351	824	124	948	93,299
1902		92,978	750	163	913	93,891
1903		97,979	910	233	1,143	99,122
1904		103,130	1,044	257	1,301	104,431
1905		113,374	1,028	345	1,373	114,747
1906		117,704	741	354	1,095	118,799
1907		123,829	660	325	985	124,814
1908		119,742	636	279	915	120,657
1909		120,131	779	231	1,010	121,141
1910		109,074	176	59	235	109,309
1911		115,198	576	181	757	115,955
1912		120,931	625	268	893	121,824
1913		119,495	664	254	918	120,413
1914		123,154	720	339	1,059	124,213

Total Registration, 1790-1970–Continued

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1915		115,193	762	321	1,083	116,276
1916		115,967	833	402	1,235	117,202
1917		111,438	781	342	1,123	112,561
1918		106,728	516	192	708	107,436
1919		113,003	572	196	768	113,771
1920		126,562	622	158	780	127,342
1921		135,280	1,118	367	1,485	136,765
1922		138,633	1,560	541	2,101	140,734
1923		148,946	1,549	592	2,141	151,087
1924		162,694	1,350	666	2,016	164,710
1925		165,848	1,400	615	2,015	167,863
1926		177,635	1,676	868	2,544	180,179
1927		184,000	1,782	1,074	2,856	186,856
1928		193,914	1,857	944	2,801	196,715
1929		161,959	1,774	933	2,707	164,666
1930		172,792	1,610	723	2,333	175,125
1931		164,642	1,787	678	2,465	167,107
1932		151,735	1,492	483	1,975	153,710
1933		137,424	1,458	479	1,937	139,361
1934		139,047	1,635	535	2,170	141,217
1935		142,031	1,908	500	2,408	144,439
1936		156,962	1,787	519	2,306	159,268
1937		154,424	1,955	551	2,506	156,930
1938		166,248	1,806	609	2,415	168,663
1939		173,135	1,770	545	2,315	175,450
1940		176,997	1,856	614	2,470	179,467
1941		180,647				180,647
1942		182,232				182,232
1943		160,789				160,789
1944		169,269				169,269
1945		178,848				178,848
1946		202,144				202,144
1947		230,215				230,215
1948		238,121				238,121
1949		201,190				201,190
1950		210,564				210,564
1951		200,354				200,354
1952		203,705				203,705
1953		218,506				218,506
1954		222,665				222,665
1955		224,732				224,732
1956		224,908				224,908
1957		225,807				225,807
1958		238,935				238,935
1959		241,735				241,735
1960		243,926				243,926

Total Registration, 1790-1970–Continued

	District Courts [1]	Library of Congress [2]	Patent Office [3]			Total
			Labels	Prints	Total	
1961		247,014				247,014
1962		254,776				254,776
1963		264,845				264,845
1964		278,987				278,987
1965		293,617				293,617
1966		286,866				286,866
1967		294,406				294,406
1968		303,451				303,451
1969		301,258				301,258
1970		316,465				316,465
Total	150,000	13,673,160	55,348	18,098	73,446	13,896,506

[1] Estimated registrations made in the offices of the Clerks of the District Courts (Source: pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870,* by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939).

[2] Registrations made in the Library of Congress under the Librarian, calendar years 1870-1897 (Source: *Annual Reports* of the Librarian). Registrations made in the Copyright Office under the Register of Copyrights, fiscal years 1898-1970 (Source: *Annual Reports* of the Register).

[3] Labels registered in Patent Office, 1875-1940; Prints registered in Patent Office, 1893-1940 (Source: memorandum from Patent Office, dated Feb. 13, 1958, based on official reports and computations).

Renewal Registrations by Subject Matter,
Calendar Years 1909-1969

	Books	Periodicals	Lectures & dramas	Music	Maps	Graphic arts	Motion pictures	Total
1909	164	32	6	157				359
1910	304	26	10	640		4		984
1911	382	25	22	603		17		1,049
1912	503	154	10	656		17		1,340
1913	558	23	5	586	1	4		1,177
1914	380	25	19	598				1,022
1915	404	236	12	686	1	1		1,340
1916	438	460	6	877		2		1,783
1917	363	518	15	920		9		1,825
1918	437	536	11	1,031		10		2,025
1919	473	536	20	853		41		1,923
1920	585	551	15	1,005		1		2,157
1921	567	585	19	1,244		2		2,417
1922	635	647	35	1,443		3		2,763
1923	883	473	38	1,769		16		3,179
1924	505	558	9	1,658	1	12		2,743
1925	1,125	569	57	2,235		5		3,991
1926	1,139	623	44	2,401		23		4,230
1927	964	588	69	3,064	1	58		4,744
1928	970	907	53	3,100	18	310		5,358
1929	1,216	529	60	3,754	5	176		5,740
1930	1,238	750	128	4,236	8	19		6,379
1931	1,328	788	133	3,453	4	16		5,722
1932	1,434	676	121	3,827	7	27		6,092
1933	1,253	582	91	3,958	7	9		5,900
1934	1,389	721	158	5,047	8	59		7,382
1935	1,314	674	154	4,933	13	55		7,143
1936	1,340	797	190	5,848	12	79		8,266
1937	1,410	651	252	6,793	38	57		9,201
1938	1,195	1,165	221	7,624	41	125		10,371
1939	1,491	1,436	255	6,693	36	64		9,975
1940	1,466	1,033	220	6,924	91	76		9,810
1941	1,557	1,166	303	7,077	170	114	1	10,388
1942	1,692	1,027	326	8,467	164	141	55	11,872
1943	1,160	940	200	4,381	161	78	213	7,133
1944	1,834	1,112	269	8,678	264	222	361	12,740
1945	1,934	1,282	223	8,665	127	201	393	12,825
1946	2,389	1,222	266	8,030	106	209	294	12,516
1947	1,974	1,171	361	9,287	191	178	197	13,359
1948	1,880	2,666	481	9,512	255	152	362	15,308
1949	2,065	2,914	454	8,858	290	211	327	15,119
1950	2,199	3,118	443	9,530	315	241	254	16,100
1951	3,208	2,187	467	8,505	572	286	279	15,504
1952	3,744	2,236	637	9,165	474	203	379	16,838
1953	4,448	1,992	635	9,860	743	288	489	18,455
1954	5,452	2,531	751	9,140	826	353	577	19,630

Renewal Registrations by Subject Matter–Continued

	Books	Periodicals	Lectures & dramas	Music	Maps	Graphic arts	Motion pictures	Total
1955	4,520	2,976	772	9,898	853	322	1,116	20,457
1956	4,550	4,121	778	11,050	779	318	1,289	22,885
1957	3,983	3,734	736	10,985	912	313	1,076	21,739
1958	3,956	4,312	816	10,772	1,046	342	1,203	22,447
1959	3,946	4,296	781	10,044	487	279	1,020	20,853
1960	4,109	4,402	593	9,484	49	306	1,048	19,991
1961	5,339	2,777	896	9,045	21	271	1,020	19,369
1962	4,928	3,393	851	8,164	110	249	1,045	18,740
1963	4,850	3,434	811	9,136	119	517	1,121	19,988
1964	5,585	3,975	908	10,034	110	1,007	971	22,590
1965	6,609	4,249	861	9,916	112	1,103	1,405	24,255
1966	7,460	4,096	904	10,149	92	586	1,228	24,515
1967	8,002	3,661	946	10,024	116	727	1,042	24,518
1968	9,398	4,001	730	10,516	79	457	1,126	26,307
1969	7,472	4,008	776	9,785	99	331	1,078	23,549
Total	148,096	100,873	20,433	356,773	9,934	11,302	20,969	668,380
Percentage	22	15	3	53	2	2	3	100

Registrations by Subject Matter Classes, Fiscal Years 1966-70

Class	Subject matter of copyright	1966	1967	1968	1969	1970
A	Books (including pamphlets, leaflets, etc.)	77,300	80,910	85,189	83,603	88,432
B	Periodicals (issues)	77,963	81,647	81,773	80,706	83,862
	(BB) Contributions to newspapers and periodicals	1,717	1,696	2,026	1,676	1,943
C	Lectures, sermons, addresses	911	996	1,050	1,155	1,669
D	Dramatic or dramatico-musical compositions	3,215	3,371	3,214	3,213	3,352
E	Musical compositions	76,805	79,291	80,479	83,608	88,949
F	Maps	1,933	2,840	2,560	2,024	1,921
G	Works of art, models, or designs	5,164	4,855	5,236	5,630	6,807
H	Reproductions of works of art	2,595	2,586	2,785	2,489	3,036
I	Drawings or plastic works of a scientific or technical character	867	695	628	552	835
J	Photographs	677	722	734	936	1,171
K	Prints and pictorial illustrations	3,081	2,740	3,109	2,837	3,373
	(KK) Commercial prints and labels	6,285	5,862	5,972	4,798	5,255
L	Motion-picture photoplays	1,983	1,771	1,450	1,066	1,244
M	Motion pictures not photoplays	906	925	1,472	1,298	1,301
R	Renewals of all classes	25,464	23,499	25,774	25,667	23,316
	Total	286,866	294,406	303,451	301,258	316,466

Number of Articles Deposited, Fiscal Years 1966-70

Class	Subject matter of copyright	1966	1967	1968	1969	1970
A	Books (including pamphlets, leaflets, etc.)	152,632	159,954	168,452	164,958	174,519
B	Periodicals	155,382	162,763	162,988	160,707	166,976
	(BB) Contributions to newspapers and periodicals	1,717	1,696	2,026	1,676	1,943
C	Lectures, sermons, addresses	911	996	1,050	1,155	1,669
D	Dramatic or dramatico-musical compositions	3,590	3,780	3,599	3,563	3,751
E	Musical compositions	97,622	101,071	101,704	103,164	110,010
F	Maps	3,863	5,680	5,120	4,047	3,840
G	Works of art, models, or designs	9,123	8,549	9,016	9,688	11,736
H	Reproductions of works of art	5,120	5,122	5,440	4,811	6,046
I	Drawings or plastic works of a scientific or technical character	1,369	1,075	992	839	1,267
J	Photographs	1,109	1,186	1,239	1,565	2,080
K	Prints and pictorial illustrations	6,162	5,453	6,212	5,671	6,740
	(KK) Commercial prints and labels	12,570	11,707	11,909	9,595	10,510
L	Motion-picture photoplays	3,886	3,469	2,828	2,100	2,448
M	Motion pictures not photoplays	1,742	1,725	2,841	2,471	2,460
	Total	456,798	474,226	485,416	476,010	505,995

Number of Articles Transferred to Other Departments of the Library of Congress [1]

Class	Subject matter of articles transferred	1966	1967	1968	1969	1970
A	Books (including pamphlets, leaflets, etc.)	68,470	66,046	105,329	90,435	92,664
B	Periodicals	164,522	169,963	172,193	169,671	175,301
	(BB) Contributions to newspapers and periodicals	1,717	1,696	2,026	1,676	1,943
C	Lectures, sermons, addresses	0	0	0	0	0
D	Dramatic or dramatico-musical compositions	816	394	313	221	100
E	Musical compositions	23,847	23,430	24,485	25,021	25,235
F	Maps	3,994	5,697	5,127	4,102	3,946
G	Works of art, models, or designs	177	234	160	173	286
H	Reproductions of works of art	545	444	598	714	431
I	Drawings or plastic works of a scientific or technical character	142	0	2	2	0
J	Photographs	8	44	37	28	28
K	Prints and pictorial illustrations	257	464	643	819	370
	(KK) Commercial prints and labels	8	57	38	350	98
L	Motion-picture photoplays	230	294	[2] 142	52	63
M	Motion pictures not photoplays	414	280	[2] 542	132	153
	Total	265,147	269,043	[2] 311,635	293,396	300,618

[1] Extra copies received with deposits and gift copies are included in these figures, thus in some categories the number of articles transferred exceeds the number of articles deposited, as shown in the preceding chart.

[2] Adjusted figure.

Gross Cash Receipts, Fees, and Registrations, Fiscal Years 1966-70

	Gross receipts	Fees earned	Registrations	Increase or decrease in registrations
1966	$1,624,081.45	$1,470,249.12	286,866	-6,751
1967	1,892,419.54	1,812,036.15	294,406	+7,540
1968	1,940,758.60	1,865,488.82	303,451	+9,045
1969	2,011,372.76	1,879,831.30	301,258	-2,193
1970	2,049,308.99	1,956,441.37	316,466	+15,208
Total	9,517,941.34	8,984,046.76	1,502,447	

Summary of Copyright Business

Balance on hand July 1, 1969		$503,097.06
Gross receipts July 1, 1969, to June 30, 1970		2,049,308.99
Total to be accounted for		2,552,406.05
Refunded	$78,248.77	
Checks returned unpaid	2,857.21	
Deposited as earned fees	1,937,437.02	
Balance carried over July 1, 1970		
Fees earned in June 1970 but not deposited until July 1970	$187,837.19	
Unfinished business balance	89,614.41	
Deposit accounts balance	253,631.63	
Card service	2,779.82	
	533,863.05	
		2,552,406.05

Summary of Copyright Business–Continued

	Registrations	Fees earned
Published domestic works at $6	203,221	$1,219,326.00
Unpublished works at $4[1]	1	4.00
Published foreign works at $6	4,159	24,954.00
Unpublished works at $6	74,202	445,212.00
Renewals at $4	23,316	93,264.00
Total registrations for fee	304,899	1,782,760.00
Registrations made under provisions of law permitting registration without payment of fee for certain works of foreign origin	11,567	
Total registrations	316,466	
Fees for recording assignments		42,421.00
Fees for indexing transfers of proprietorship		15,198.00
Fees for recording notices of intention to use		218.00
Fees for recording notices of use		21,769.00
Fees for certified documents		5,461.00
Fees for searches made		79,470.00
Card Service		9,144.37
Total fees exclusive of registrations		173,681.37
Total fees earned		1,956,441.37

[1] This claim was received in the Copyright Office before the increase of fee rates in November 1965.

Publications of the Copyright Office

The publications listed below may be obtained free of charge from the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

General Information on Copyright. Circular 1. 11 pages. 1969.

The Copyright Office. Circular 1A. 2 pages. 1971.

Regulations of the Copyright Office. (Code of Federal Regulations, Title 37, chapter II.) Circular 96. 17 pages. 1969.

Circulars on specific copyright subjects are available. These include:
Assignments and Related Documents
Audiovisual Material
Authors' Publishing and Recording Arrangements
Books and Pamphlets
Cartoons and Comic Strips
Choreographic Works
Computer Programs
Contributions to Periodicals
Copyright Notice
Dramatico-Musical Works
Fair Use
Games
How to Investigate the Copyright Status of a Work
International Copyright Relations
Letters, Diaries, and Similar Personal Manuscripts
Looseleaf Publications
Motion Pictures
Musical Compositions
New Versions and Reprints
Periodicals
Pictorial, Graphic, and Sculptural Works
Poems and Song Lyrics
Prints and Labels
Radio and Television Programs
Renewal of Copyright

Annual Report of the Register of Copyrights. Copies are available for the fiscal years beginning with 1962. Certain earlier Reports are also available.

Bibliography on Design Protection. Compiled and edited by Barbara A. Ringer. 70 pages. 1955.

Bibliography on Design Protection. Supplement 1959. 160 pages. 1959.

Copyright Bibliography. By Henriette Mertz. 213 pages. 1950.

Copyright-Related Laws and Regulations. A listing of some provisions in the United States Code, Statutes at Large, and the Code of Federal Regulations dealing with or related to copyright (exclusive of 17 USC, the copyright law, and 37 CFR II, the regulations of the Copyright Office). Compiled by Marjorie G. McCannon. 31 pages. 1968.

For information about obtaining copies of the committee prints and hearings listed below, which are not available from the Government Printing Office, write to the Register of Copyrights, Library of Congress, Washington, D.C. 20540.

Copyright Law Revision Studies. Studies prepared for the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate.

Studies 1–4. 142 pages. 1960. 40 cents.
1. The History of U.S.A. Copyright Law Revision from 1901 to 1954
2. Size of the Copyright Industries
3. The Meaning of "Writings" in the Copyright Clause of the Constitution
4. The Moral Right of the Author

Studies 5–6. 125 pages. 1960. 35 cents.
5. The Compulsory License Provisions of the U.S. Copyright Law
6. The Economic Aspects of the Compulsory License

Studies 7–10. 125 pages. 1960. 35 cents.
7. Notice of Copyright
8. Commercial Use of the Copyright Notice
9. Use of the Copyright Notice by Libraries
10. False Use of the Copyright Notice

Studies 11–13. 155 pages. 1960. 45 cents.
11. Divisibility of Copyrights
12. Joint Ownership of Copyrights
13. Works Made for Hire and on Commission

Studies 14–16. 135 pages. 1960. 35 cents.
14. Fair Use of Copyrighted Works
15. Photoduplication of Copyrighted Material by Libraries
16. Limitations on Performing Rights

Studies 17–19. 135 pages. 1960. 40 cents.
17. The Registration of Copyright
18. Authority of the Register of Copyrights to Reject Applications for Registration
19. The Recordation of Copyright Assignments and Licenses

Studies 20–21. 81 pages. 1960. 25 cents.
20. Deposit of Copyrighted Works
21. The Catalog of Copyright Entries

Studies 22–25. 169 pages. 1960. 45 cents.
22. The Damage Provisions of the Copyright Law
23. The Operation of the Damage Provisions of the Copyright Law: An Exploratory Study
24. Remedies Other Than Damages for Copyright Infringement
25. Liability of Innocent Infringers of Copyright

Studies 26–28. 116 pages. 1961. 35 cents.
26. The Unauthorized Duplication of Sound Recordings
27. Copyright in Architectural Works
28. Copyright in Choreographic Works

Studies 29–31. 237 pages. 1961. 60 cents.
29. Protection of Unpublished Works
30. Duration of Copyright
31. Renewal of Copyright

Studies 32–34. 57 pages. 1961. 25 cents.
32. Protection of Works of Foreign Origin
33. Copyright in Government Publications
34. Copyright in Territories and Possessions of the United States

Subject Index to Studies 1–34. 38 pages. 1961. 15 cents.

Hearings on the Revision Bill. Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, U.S. Senate. In 7 parts, including a combined subject and name index.

89th Cong., 1st sess., pursuant to S. Res. 48 on S. 1006. August 18, 19, and 20, 1965. 242 pages. 1967.

89th Cong., 2d sess., pursuant to S. Res. 201 on S. 1006. August 2, 3, 4, and 25, 1966. CATV hearings. 252 pages. 1966.

90th Cong., 1st sess., pursuant to S. Res. 37 on S. 597. Parts 1–4. 1383 pages. 1967.

Index of Hearings. Combined subject and name index. 151 pages. 1968.

To order the publications listed below address orders and make remittances payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Copyright Law of the United States of America. (Title 17, United States Code), Bulletin 14. This is a pamphlet edition of the copyright law including the Regulations of the Copyright Office and the text of the Universal Copyright Convention. 83 pages. 1969. 45 cents.

Compendium of Copyright Office Practices. A general guide to Copyright Office practices, which are subject to constant review and modification. Looseleaf. 1971. $6 domestic and $7.50 foreign.

Copyright Enactments. Laws Passed in the United States since 1783 Relating to Copyright. Bulletin 3, revised. Looseleaf in binder. 150 pages. 1963. $2.

Catalog of Copyright Entries. Each part of the Catalog is published in semiannual numbers containing the claims of copyright registered during the periods January–June and July–December. The prices given below are for the year. Semiannual numbers are available at one-half the annual price. Beginning with vol. 20, no. 1, 1966, Third Series of the Catalog, the annual subscription price for all parts of the complete yearly Catalog is $50. For the preceding 19 volumes of the Third Series, the annual subscription price for all parts is $20. The prices given in brackets are for the issues preceding vol. 20. Write to the Superintendent of Documents for information about additional charges for mailing the Catalogs to foreign countries.

Part 1—Books and Pamphlets Including Serials and Contributions to Periodicals. $15[$5]
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Parts 7–11A—Works of Art, Reproductions of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations. $5[$2]
Part 11B—Commercial Prints and Labels. $5[$2]
Parts 12–13—Motion Pictures and Filmstrips. $5[$1]
Annual Subscription Price, all parts. $50[$20]

Catalog of Copyright Entries, Cumulative Series.

Motion Pictures 1894–1912. Works identified from the records of the United States Copyright Office by Howard Lamarr Walls. 92 pages. 1953. $2.

Motion Pictures 1912–1939. Works registered in the Copyright Office in Classes L and M. 1256 pages. 1951. $18.

Motion Pictures 1940–1949. Works registered in the Copyright Office in Classes L and M. 599 pages. 1953. $10.

Motion Pictures 1950–1959. Works registered in the Copyright Office in Classes L and M. 494 pages. 1960. $10.

Motion Pictures 1960–1969. Works registered in the Copyright Office in Classes L and M. 744 pages. 1971. $8.

These five volumes list a total of over 135,000 motion pictures registered since the beginning of the motion picture industry.

Decisions of the United States Courts Involving Copyright. The series contains substantially all copyright cases, as well as many involving related subjects, which have been decided by the Federal and State courts.

1909–14 (Bulletin 17) Out of print
1914–17 (Bulletin 18) $2.50
1918–24 (Bulletin 19) $2.50
1924–35 (Bulletin 20) $3.75
1935–37 (Bulletin 21) $0.75
1938–39 (Bulletin 22) $2.00
1939–40 (Bulletin 23) $2.25
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1947–48 (Bulletin 26) $1.75
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1957–58 (Bulletin 31) $2.75
1959–60 (Bulletin 32) $3.00
1961–62 (Bulletin 33) $2.75
1963–64 (Bulletin 34) $2.75
1965–66 (Bulletin 35) $3.75
1967–68 (Bulletin 36) $5.25.

Cumulative Index, 1909-1954 (Bulletins 17–29) $1.75.
Complete set, including Index $55.
Prices are subject to change.

Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law. 87th Cong., 1st sess. House Committee Print. 160 pages. July 1961. 45 cents.

Copyright Law Revision, Part 2. Discussion and Comments on Reports of the Register of Copyrights on the General Revision of the U.S. Copyright Law. 88th Cong., 1st sess. House Committee Print. 419 pages. February 1963. $1.25.

Copyright Law Revision, Part 3. Preliminary Draft for Revised U.S. Copyright Law and Discussions and Comments on the Draft. House Committee Print. 457 pages. September 1964. $1.25.

Copyright Law Revision, Part 4. Further Discussions and Comments on Preliminary Draft for Revised U.S. Copyright Law. 88th Cong., 2d sess. House Committee Print. 477 pages. December 1964. $1.25.

Copyright Law Revision, Part 5. 1964 Revision Bill with Discussions and Comments. 89th Cong., 1st sess. House Committee Print. 350 pages. September 1965. $1.

Copyright Law Revision, Part 6. Supplementary Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law: 1965 Revision Bill. 89th Cong., 1st sess. House Committee Print. 338 pages. May 1965. $1.

Hearings on the 1965 Revision Bill. Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives. 89th Cong., 1st sess., on H.R. 4347, H.R. 5680, H.R. 6831, H.R. 6835. May-September 1965. In 3 parts, including an appendix of letters and other statements, as well as a combined subject and name index. 2056 pages. 1966. Part 1, $2; Part 2, $2.25; Part 3, $2.

Copyright Law Revision. Report of the House Committee on the Judiciary. 89th Cong., 2d sess., H. Rept. 2237. 279 pages. 1966. 65 cents.

Copyright Law Revision. Report of the House Committee on the Judiciary. 90th Cong., 1st sess., H. Rept. 83. 254 pages. 1967. 60 cents.

Orders for and inquiries concerning the work listed below should be addressed and remittances made payable to the Chief, Photoduplication Service, Library of Congress, Washington, D.C. 20540.

A Compilation of the Regulations Concerning Copyright, 1874-1956. The regulations affecting copyright since the duties of registering copyright claims were first transferred to the Library of Congress. Positive microfilm, $6.50; photostat, $60.

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